

When deciding whether to grant a stay pending appeal, courts typically look to the following factors: (1) whether the movant has shown a likelihood of success on the merits of the appeal; (2) whether the movant has shown a likelihood of irreparable injury absent a stay; (3) whether a stay would substantially harm other parties to the litigation; and (4) the public interest. *See Hilton v. Braunskill*, 481 U.S. 770, 776 (1987); *Republic of Philippines v. Westinghouse Elec. Corp.*, 949 F.2d 653, 658 (3d Cir. 1991). The Court considered essentially the same factors in rendering its decision on Defendants’ motion to stay pending a ruling by the Judicial Panel on Multidistrict Litigation (D.I. 3), which is part of the March 15 ruling. (*See* D.I. 34) These

factors weighed against a stay then, and the recent filings do not persuade the Court otherwise.

The Court will, therefore, deny the motion for a stay pending appeal.

That said, the Court advises the parties that the Clerk has yet to mail a certified copy of the order of remand to the clerk of the Delaware Superior Court. *See* 28 U.S.C. § 1447(c). The Court will grant a temporary stay and direct the Clerk to refrain from making the requisite mailing until March 28, 2011. Defendants shall submit a form of Order for the Court to enter, which shall be agreed to by Plaintiff as to form. This submission is due by 10:00 a.m. on March 21, 2011.

March 18, 2011  
Wilmington, DE

  
UNITED STATES DISTRICT JUDGE